

REMARKS

The Office Action has been carefully reviewed. No claim is allowed. Claims 8, 17, 26 and 37 presently appear in this application, with claims 26 and 37 withdrawn from consideration, and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Withdrawn claims 1-7, 27-36 and 38-45 are cancelled without prejudice to refiling in a divisional application.

Claims 8 and 17 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. This rejection is obviated by the amendments to claims 8 and 7 to specifically recite for the Spa protein of the SE9 strain of *E. rhusiopathiae* which the examiner indicated was adequately described in the specification.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 8 and 17 have been objected to for informalities. This objection is obviated by the deletion of the objected claim language.

Claims 8 and 17 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. This rejection is also obviated by

the amendment to claims 8 and 17 to specifically recite for the Spa protein of the SE9 strain of *E. rhusiopathiae* which the examiner indicated was enabled.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 8 and 17 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for the term "about one third". While not conceding to the examiner's position, this issue is made moot by the amendment without prejudice to claims 8 and 17 to delete this term.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

As elected product claims 8 and 17 are now allowable, rejoinder of the process of non-elected use/method claim 37, which depends from product claim 8, is requested. In addition, non-elected claim 26, which shares a special technical feature (encoding the variant of claim 8) with the variant of product claim 8 is also respectfully requested.

Appln. No. 10/590,896
Amendment dated October 17, 2011
In re Office Action of July 20, 2011

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By /ACY/
Allen C. Yun
Registration No. 37,971

ACY:pp
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\A\Aoyb\Ushijima3\Pto\2011-10-17Amendment.doc